SBCivil Writ Petition No.2720/2002

Jagan Nath Baranda
Vs.
State of Rajasthan & Ors.

Date of Order :: 11h July, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Mahesh Bora, for the petitioner.
Mr. Shyam Ladrecha, Addl.Govt.Advocate.

....

The petitioner at his own request was transferred from Som Kamla Amba Project to Mahi Project, Banswara on 22.1.1981. On transfer, fixation of the petitioner was made in pay scale of Rs.385-650 applicable to the post of compressor driver, the post held by the petitioner. The fixation of the petitioner's salary was made time to time by the respondents on revision of pay scales. At the first instance on 15.5.2000 after retirement of petitioner from services the Assistant Engineer, Som Kamla Amba Project Right Canal, Sub Division, Aspur passed an order making fixation of the petitioner in the pay scale of Rs.295-500 instead of Rs.385-650 w.e.f. 22.1.1981. The order aforesaid was passed in pursuant to an order dated 30.12.1999 passed by the Superintending Engineer, Irrigation, Construction Circle, Udaipur. Being aggrieved by order dated 15.5.2000 the instant petition for writ is preferred under Article 226 of the Constitution of India.

It is contended by counsel for the petitioner that the respondents without assigning any reason and

without giving any notice to the petitioner changed his pay scale after a lapse of about two decades. The act of the respondents, according to counsel for the petitioner, is unjust and arbitrary.

A reply to the writ petition has been filed on behalf of the respondents stating therein that the pay scale of Rs.385-650 was erroneously given to the petitioner as the petitioner was working in Som Kamla Amba Project where pay scale prescribed for the post of compressor driver was Rs.295-500. The petitioner, therefore, was entitled for the pay scale of Rs.295-500 only even on his transfer to Mahi Project.

Heard counsel for the parties.

It is not at all in dispute that the petitioner was transferred from Som Kamla Amba Project to Mahi Project on 22.1.1981 and at that time fixation of his pay was made in the pay scale of Rs.385-650. The pay of the petitioner was revised time to time by the respondents and at the first instance the respondents in the year 1999 pointed out error in fixation of the petitioner that took place in the year 1981. The petitioner also stood retired from service on 28.2.2001. It is also the position admitted that before changing pay scale of the petitioner no notice was given to him by the respondents.

Be that as it may, it also position admitted that in Mahi Project the pay scale applicable for the post of compressor driver was of Rs.385-650, as such the pay scale allowed to the petitioner was pertaining to the post held by the petitioner. The respondents have utilised services of the petitioner in Mahi Project then it was obligatory for them to make fixation of his pay in the pay scale applicable in that project. No error, therefore, is committed in making fixation of the petitioner's pay in the pay scale of Rs.385-650.

Accordingly, this petition for writ succeeds. The order dated 30.12.1999 passed by the Assistant Accounts Officer in the office of Superintending Engineer, Construction Circle, Udaipur and the order dated 15.5.2000 passed by the Assistant Engineer, Som Kamla Amba Project Right Canal, Sub Division, Aspur are hereby quashed. The fixation of the petitioner in pursuant to the order dated 15.5.2000 made on 11.7.2001 is also declared illegal. The respondents are directed to restore the fixation of the petitioner's pay accordingly and he shall also be entitled for all other consequential benefits.

(GOVIND MATHUR),J.

kkm/ps.